

# **EXHIBIT 16**

Page 1

IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF VIRGINIA  
NORFOLK DIVISION

No. 2:18cv530

CSX TRANSPORTATION, INC.,  
individually and on behalf  
of NORFOLK & PORTSMOUTH BELT  
LINE RAILROAD COMPANY,

Plaintiff,

v.

NORFOLK SOUTHERN RAILWAY COMPANY,  
et al.,

Defendants.

\_\_\_\_\_  
Remote Proceedings

January 13, 2021

9:38 a.m. - 6:40 p.m.

VIDEO DEPOSITION OF ROBERT GIRARDOT  
(via Teleconference)

Taken before SUZANNE VITALE, R.P.R., F.P.R.  
and Notary Public for the State of Florida at Large,  
pursuant to Notice of Taking Deposition filed in the  
above cause.

Job No. CS4395739

1       that provision, would you agree that  
2       Norfolk Southern would be in its rights to seek to  
3       have the NPBL uphold that portion of the operating  
4       agreement?

5               MR. HATCH: I'm going to object with the  
6       same set, and I'll add that it's been asked and  
7       answered.

8               MR. WINGFIELD: The witness did not answer  
9       the question, so I'm asking it again. So I'll  
10      have to ask it a third time and see if I can  
11      get an answer.

12      BY MR. WINGFIELD:

13             Q.    Does CSX agree that NSR would be within  
14      its rights to seek to uphold the agreement embodied  
15      in the first sentence of the tenth paragraph of the  
16      operating agreement?

17             MR. HATCH: I'm going to object. That is  
18      a hypothetical question. It calls for a legal  
19      conclusion. The witness is here to provide  
20      factual testimony.

21             So with those objections, if you can  
22      answer, Rob, please proceed.

23             THE WITNESS: Yes.

24      BY MR. WINGFIELD:

25             Q.    Would CSX agree that the first sentence of

1 monitor is 3:02 p.m. We are back on the video  
2 record. This is the start of Media Unit No. 4.

3 BY MR. WINGFIELD:

4 Q. Mr. Girardot, we're on Exhibit 14, which  
5 is tab 16, Cannon Moss' e-mail, still.

6 In Mr. Moss' e-mail, the last bullet point  
7 reads "NPBL management has reviewed the proposed  
8 rate and would recommend to the board for a rate  
9 committee to do a complete review of the tariff."

10 Do you see that?

11 A. Yes.

12 Q. Did CSXT understand it was being offered a  
13 rate committee to consider the proposed rate if it  
14 wanted?

15 A. No, I don't understand that bullet as  
16 that, no.

17 Q. Okay. Did CSXT at any point say yes,  
18 thank you, we would like the rate committee?

19 A. Not that I know of.

20 Q. So let's go back to the 2018 rate  
21 proposal, Exhibit 12, tab 7.

22 A. Yes.

23 Q. I'm on page 2, the language we looked at  
24 before, where CSXT, in this letter, stated

25 "Similarly, we believe the commercial sensitivity